

REMARKS

In the Office Action, claims 1 and 3-14 have been rejected under 35 U.S.C. § 102(b) as being anticipated by Vaillancourt. Additionally, claims 2 and 15-20 have been rejected under 35 U.S.C. § 103(a) as being unpatentable over Vaillancourt in view of Grim. Also, the Abstract has been objected to because of an informality.

In response to the Office Action, independent claims 1, 10 and 15 have been amended to more clearly indicate that the syringe includes a locking tab that is moveable relative to the sheath to unlock the sheath and allow the sheath to retract and expose the needle. Dependent claims 2 and 8 have been amended to accommodate the changes to independent claim 1. Support for the claim amendments is found in the specification beginning on page 4, line 18 and continuing to page 5, line 14 and on page 6, lines 4-13, Figs. 4 and 5A-D, and in the original claims. Also in this response to the Office Action, the specification and the formal versions of Figs. 1 and 3 have been amended to correct typographical errors that have been noted. Red-lined drawings showing the corrections and a revised copy of formal drawings incorporating the corrections are being submitted herewith and concurrently under separate cover for draftsperson review. Finally, the Abstract has been amended in accordance with the Examiner's suggestion.

Amendments to the claims have been presented herein to improve the readability of the claims and to point out the features which distinguish the present invention over the cited art. Claims 1-20 remain pending.

Rejections under 35 U.S.C. § 102(b)

In the Office Action, claims 1 and 3-14 have been rejected under 35 U.S.C. § 102(b) as being anticipated by Vaillancourt. The Examiner has indicated that Vaillancourt shows a syringe comprising a syringe body 45, needle holder 10, sheath 17 and means for locking 21 and 22.

Independent claim 10 for the present invention, as amended, recites a syringe comprising a hinged tab extending from a sheath for movement relative to the sheath between a first configuration to prohibit relative movement between the sheath and a syringe needle and a second configuration to allow relative movement between the sheath and the needle. This cooperation of structure allows the sheath to be locked over the needle during non-use and unlocked by moving the hinged tab relative to the sheath to allow the sheath to retract over the needle for an injection. Additionally, this cooperation of structure allows the tab to be moved and the sheath unlocked when the operator slides one of the finger grips along the outside of the syringe body. In a similar manner, independent claim 1 for the present invention, as amended, recites a lock having a locking tab mounted on the sheath and a means for moving the locking tab relative to the sheath to unlock the sheath.

No such structure or cooperation of structure is taught or suggested by Vaillancourt. Specifically, Vaillancourt does not teach a tab that is moveable relative to a sheath to regulate movement of the sheath relative to a syringe needle. Instead, Vaillancourt discloses a projection on a sheath for movement within a guide slot. When the projection disclosed by Vaillancourt is in a first position in the guide slot, the sheath is locked over the needle. With the projection disclosed by Vaillancourt in a second

position in the guide slot, the sheath can be retracted over the needle. Importantly, unlike the present invention, the projection disclosed by Vaillancourt is not moveable relative to the sheath, but rather the sheath and projection must be rotated by the user to place the projection at the correct location within the guide slot where the sheath can be retracted over the needle. As indicated above, a locking tab that is moveable relative to a sheath as claimed for the present invention allows the sheath to be unlocked by the linear movement of a sliding finger grip. It then follows that a sheath that can be unlocked by moving a tab relative to the sheath is non-obvious in light of Vaillancourt, since Vaillancourt does not teach or suggest a syringe having a sheath that can be unlocked by the linear movement of a sliding finger grip.

Accordingly, Attorney for Applicant respectively contends that the basis for rejecting independent claims 1 and 10 under 35 U.S.C. § 102(b) has been overcome and the rejections should be withdrawn. Further, since claims 3-9 and 11-14 depend either directly or indirectly from independent claim 1 or 10, these claims are likewise allowable.

Rejections under 35 U.S.C. § 103(a)

In the Office Action, claims 2 and 15-20 have been rejected under 35 U.S.C. § 103(a) as being unpatentable over Vaillancourt in view of Grim. In light of the arguments presented above, Attorney for Applicant respectfully contends that independent claim 1, as amended, is patentably distinguishable over Vaillancourt. Further, Attorney for Applicant respectfully contends that the teaching that is lacking in Vaillancourt is not provided by Grim. Specifically, unlike amended claim 1 for the

present invention, Grim does not disclose a locking tab and a means for moving the locking tab relative to the sheath to unlock the sheath. Instead, like Vaillancourt, Grim discloses a tab for travel within a slot guide to regulate movement between a needle shield and a needle. In both Vaillancourt and Grim, the tab (projection) moves with the sheath to unlock the sheath. As such, Attorney for Applicant respectfully contends that amended independent claim 1 for the present invention is patentable in view of Vaillancourt and Grim. Accordingly, since claim 2 depends from claim 1, Attorney for Applicant respectfully contends that claim 2 is allowable and that the rejection of claim 2 under 35 U.S.C. § 103(a) has been overcome and the should be withdrawn.

In a manner similar to claim 1, independent claim 15 for the present invention, as amended, recites the step of sliding a finger grip to ... pivot a locking tab relative to the sheath ... to unlock the sheath. No such step is taught or suggested by Vaillancourt or Grim, alone or in combination. Specifically, as indicated above, neither reference discloses a tab that is moveable relative to the sheath to unlock the sheath. Accordingly, Attorney for Applicant respectfully contends that the basis for rejecting independent claim 15 under 35 U.S.C. § 103(a) has been overcome and the rejection should be withdrawn. Further, since claims 16-20 depend either directly or indirectly from independent claim 15, these claims are likewise allowable.

The references cited by the Examiner, but not relied on for the rejection of claims, have been noted.

In conclusion, Applicant respectfully asserts that claims 1-20 are patentable for the reasons set forth above. Accordingly, Applicant hereby contends that the application is now in a condition for allowance, an early notice of allowance is respectfully requested. The Examiner is requested to call the undersigned at 619-688-1300 for any reason that would advance the instant application to issue.

Dated this 30th day of May, 2002.

Respectfully submitted,

A handwritten signature in black ink, appearing to read 'MATTHEW K. HILLMAN', with a large, sweeping horizontal stroke above the name.

MATTHEW K. HILLMAN
Attorney for Applicant
Registration No. 45,892

NYDEGGER & ASSOCIATES
348 Olive Street
San Diego, California 92103
Telephone: (619) 688-1300